

STATE OF TENNESSEE

Office of the Attorney General



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March 10, 2004

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE GAS COMPANY, A  
DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC., ATMOS ENERGY  
CORPORATION FOR A DECLARATORY RULING REGARDING THE  
COLLECTIBILITY OF THE GAS COST PORTION OF UNCOLLECTIBLE ACCOUNTS  
UNDER THE PURCHASED GAS ADJUSTMENT ("PGA") RULES  
Docket No. 03-00209**

Dear Chairman Tate:

Enclosed is an original and thirteen copies of Comments by the Consumer Advocate and Protection Division of the Office of the Attorney General. Kindly file the attached in this docket. By copy of this letter, we are serving all parties of record. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,

Shilina B. Chatterjee  
Assistant Attorney General  
(615) 532-3382

Enclosures

cc: Kim Beals, Esq.  
Hearing Officer  
All Parties of Record

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**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF CHATTANOOGA GAS</b>	)	<b>DOCKET NO. 03-00209</b>
<b>COMPANY, NASHVILLE GAS COMPANY, A</b>	)	
<b>DIVISION OF PIEDMONT NATURAL GAS</b>	)	
<b>COMPANY, INC., AND UNITED CITIES GAS</b>	)	
<b>COMPANY, A DIVISION OF ATMOS</b>	)	
<b>ENERGY CORPORATION FOR A</b>	)	
<b>DECLARATORY RULING REGARDING</b>	)	
<b>THE COLLECTIBILITY OF THE GAS COST</b>	)	
<b>PORTION OF UNCOLLECTIBLE</b>	)	
<b>ACCOUNTS UNDER THE PURCHASED GAS</b>	)	
<b>ADJUSTMENT ("PGA") RULES</b>	)	
	)	

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**COMMENTS BY THE CONSUMER ADVOCATE & PROTECTION DIVISION OF  
THE OFFICE OF THE ATTORNEY GENERAL**

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Comes Paul G. Summers, the Attorney General and Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Consumer Advocate" or "CAPD"), and hereby files its comments pursuant to the decision rendered by the Tennessee Regulatory Authority ("TRA") in the above-captioned docket on February 9, 2004. The TRA Directors stated that interested parties could file comments within 30 days.

We present these comments to address important issues raised by the TRA's decision in this docket. This decision will adversely impact gas consumers in Tennessee, as well as the stability of well-established TRA interpretations and rules. The TRA rendered a decision that interpreted the PGA mechanism to allow recovery of costs other than true gas costs even though it was uncontroverted that uncollectible accounts expense in the PGA mechanism has never been a part of the PGA mechanism. Allowing uncollectible account expense to be included for

recovery in the gas costs portion of the PGA, this interpretation threatens to begin the slippery slope of allowing other non-gas items costs to be recovered through the PGA mechanism. The PGA mechanism was not intended nor anticipated to include anything other than gas cost expense.

The consumers of Tennessee will be forced to pay more for their gas service since gas bills will most likely increase for consumers across Tennessee as a result of the decision rendered in this docket. Essentially, Tennessee consumers will be required to pay the gas bills of those that do not pay because the TRA has reduced the incentive for the gas utilities to collect from those who do not pay their gas bills. By allowing the utilities to shift the associated risk to consumers in this manner through the TRA's acceptance of the gas companies' proposal, signals a retreat from previous TRA decisions and positions taken by the utilities regarding incentive or performance-based rate making. Since the inception of the PGA rules, uncollectible accounts expense have never been included in the PGA mechanism. The historical practice and current practice is proof positive that uncollectible accounts expense is an expense, a cost of doing business for the gas companies and are not gas costs under the plain reading and operation of the PGA. The decision rendered by the TRA is not in the best interests of the consumers of the State of Tennessee.


Additionally, it should be noted that a similar request was made by gas utilities concerning uncollectible account expense to the North Carolina Public Service Commission. However, the North Carolina Commission denied the request of the gas company in Docket No. G9, Sub. 453 on November 7, 2001. The North Carolina Commission deemed it was not proper to include uncollectible accounts expense in the PGA mechanism because it was not considered to be gas costs expense.

Furthermore, during the course of the hearings on summary judgment, both parties argued the issue of whether as a matter of law a declaratory judgment was the proper procedural mechanism in this matter. Nevertheless, the TRA issued a decision and decided in favor of the Petitioners in this docket and granted Petitioners' Motion for Summary Judgment in part. It should be noted that the only evidence on the merits filed by either party was in the form of affidavits by the parties' respective experts. These affidavits conflicted in their conclusions. However, the TRA did not allow a hearing on the merits of the actual proposal itself. An evidentiary hearing on the merits would have been a more prudent step to take in this docket in light of the far reaching impact this decision will have on the consumers of Tennessee, the shift in long standing policy and the fact that other neighboring states have rejected similar proposals.

Finally, based on the modification of the formula proposed by the TRA in order to allow inclusion of uncollectible accounts in the PGA mechanism, there are several practical considerations and concerns that the Consumer Advocate has with regard to implementation of the modification of the formula proposed by the TRA. During the course of a twelve month period gas prices rise and fall. Therefore, it is necessary to have proper safeguards in place to insure a proper matching of uncollectibles with the appropriate gas cost applicable in the outstanding account balances. The methodology for comparing actual with estimated gas cost reconciled within the ACA will be further complicated with matching the so-called gas cost portion of revenues billed and not collected during gas cost fluctuating periods. The mechanics of this procedure will have to be developed prior to such recovery and inclusion within the ACA. The actual methodology for the collection process will have to be practically applied to work within the framework of the PGA mechanism. At this juncture, it is not clear what will be the

actual application and operation of the modified formula. The gas companies have not explicitly set forth how inclusion of uncollectible accounts expense will actually occur. The TRA has not presented the details or the specifics concerning how the modification of the formula will actually be implemented and effectuated. Therefore, it seems that to address all these concerns and issues, it would have been more prudent to open a rulemaking proceeding in this matter especially in light of the fact that this shift has such a broad and far reaching impact on gas consumers in the State of Tennessee.

RESPECTFULLY SUBMITTED,

  
SHILINA B. CHATTERJEE, B.P.R. #20689  
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Consumer Advocate and Protection Division  
P.O. Box 20207  
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Dated: March 10, 2004

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via hand delivery or facsimile on March 10, 2004.

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